IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 624 OF 2007

Shri Salim Badshah Makandar & Ors. .. Petitioners.

V/s.

The Account Officer, Audit Squad
(Education Dept.), Kolhapur & Ors. .. Respondents.

Mr.Umesh Mankapure for the Petitioners.

Mrs.M.P.Thakur, AGP for the Respondent Nos.1 to 3 and 5.

CORAM : F.I. REBELLO AND
R.M. SAVANT, JJ.

DATED : 12TH MARCH, 2007.

P.C.:

. Rule. Heard forthwith.

2. The petitioners are serving as Assistant Teachers in the Secondary School run by the Respondent No.4 Society. The school run by the Respondent No.4 Society is a private aided school. By the present petition, the petitioners are challenging the decision, whereby the senior pay scale granted to the petitioners was cancelled and direction was issued to recover the excess payment from the monthly salary of the petitioners. The petitioners have approached this court on the ground that the said orders are illegal and contrary to the law. The school run by the Respondent

No.4, though recognized, was not aided. However, the school started receiving aid from March, 1995. By the purported action of the Government, only service rendered after the school started receiving aid, was to be computed for the purpose of granting the senior pay scale. According to the petitioners, the grant of aid or non- receipt of aid is immaterial as the school, whether aided or not aided, being recognized has to pay the pay scales in terms of the provisions of the MEPS Act under the Rules. In this regard, the learned counsel relied on the judgment of learned division bench of this court in the case of **Shri S.T.Devare & Ors. vs. The Accounts Officer, Education Dept.(Secondary) Nasik, in writ petition No.4346 of 2000 dated 14th September, 2000.** The learned counsel also relied on the judgment in **writ petition No. 5006 of 2005 decided on 12th of September, 2005.**

3. The replies/affidavits have been filed on behalf of the Respondents. We may advert only to the reply of 8th of March, 2007 of H.R.Salunkhe, Accounts Officer. In the said affidavit, it is pointed out that the State Government has decided to consider the services rendered in unaided schools or unaided period of the same school as qualifying services provided those services are duly approved by the Education Department for which the

process is under consideration. A Government Resolution was issued on 28th November, 2006. By the said G.R., it is set out that the teaching staff working in the recognised, unaided private schools in the State of Maharashtra, their services shall be computed and taken into consideration on the terms and conditions mentioned in the G.R. dated 28th November, 2006 for the purposes of higher grades and selection grades. In other words, the stand of the State is that now they have considered the period also in the unaided school or division for the purposes of counting total service for a higher scale or selection grade. Once that be the case, the present petition is disposed of by issuing the following direction :

i. Considering the G.R. dated 28th November, 2006, the Respondent No.2 to consider the cases of the petitioners in terms of the aforesaid G.R. and thereafter, pass appropriate orders according to law. This exercise to be completed within 12 weeks from today.

ii. Till such time the matter is decided, the Respondent not to effect the recovery of money from the salary of the petitioners.

4. Rule is made absolute accordingly with no order as to costs.

(R.M.SAVANT, J.) (F.I.REBELLO,J.)